



Paper No. 18

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**JAN 31 2011**

**OFFICE OF PETITIONS**

In re Patent No. 6,453,590  
Issue Date: September 24, 2002  
Application No. 09/458,179  
Filed: November 19, 1999  
Patentee(s): Edward Allen Burke

**ON PETITION**

This is a decision on the petition under 37 CFR 1.378(c), filed on December 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

A review of the record shows that petitioner submitted payment of \$1,305 for the payment of the maintenance fee for the above-identified patent. The fee payment of \$1,305 has been applied as follows: \$1,240 for payment of the 7 ½ year small entity maintenance fee and \$65 towards the unintentional late payment surcharge. However, the proper surcharge for a patent expired unintentionally after the six months grace period is \$1,640. Therefore, this patent cannot be reinstated until the deficiency of \$1,575 (1640-65) has been submitted.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

**Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                    Mail Stop PETITION  
                                 Commissioner for Patents  
                                 Post Office Box 1450  
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By hand:                    U.S. Patent and Trademark Office  
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Telephone inquiries should be directed to the undersigned at (571) 272-3226.

  
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